



# ERIE COUNTY LEGISLATURE

HON. EDWARD A. RATH, III  
LEGISLATOR

June 6, 2013

Hon. Michael Montesano  
New York State Assemblyman  
Room 437 Legislative Office Building  
Albany, NY 12248

**RE: Opposition to the New York SAFE Act**

Dear Assemblyman Montesano:

I would like to start by thanking you and your colleagues in the New York State Assembly's Republican Caucus for hosting this hearing. Your work in opposing the New York SAFE Act from its inception is a credit to our democracy and an example of what good public service is. If, as elected leaders, we lose our focus on defending the core principles of our constitution, we have failed the public who trusted us to serve them.

Like you, I was very disheartened earlier this year when the Governor suspended the rules of the State Legislature and paved the way for immediate passage of the New York SAFE Act. I strongly feel the SAFE Act violates the United States Constitution, which preempts the New York State Constitution and the laws and charters of our local municipalities. In my opinion, its passage was unfair, unethical and illegal.

As a member of the Erie County Legislature, I was proud to act as lead sponsor of a resolution opposing the NY SAFE Act and calling for its repeal. I have attached it to this letter for inclusion in the public record of your hearing. I firmly believe it is unlawful, and our resolution sits in good company with a chorus of other county legislatures and boards calling for its repeal.

I appreciate your efforts to achieve a complete and total repeal of the SAFE Act, but I am also aware of the reality of accomplishing that goal. That is why I also co-sponsored a resolution asking for the State to reimburse Erie County for the costs it is incurring to implement the various aspects of the law. Since its passage, our County Clerk's Office has had a line out its

door, creating a backlog in paperwork that needs to be completed with overtime hours, at a hefty cost to the taxpayers I serve.

Simply put, the New York SAFE Act violates the Second Amendment of the United States Constitution and is another unfunded mandate from New York State placed on the Counties. I am happy that our Erie County Legislature led the charge asking for its repeal, and that 51 other counties have done so as well.

Sincerely,

A handwritten signature in blue ink that reads "E. Rath III". The signature is stylized, with a large "E" and "R" and a Roman numeral "III" at the end.

Edward A. Rath III

Erie County Legislator- District 6

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATORS RATH, MILLS, DIXON, HARDWICK & LORIGO**

**Re: Opposing the New York SAFE Act of 2013**

**WHEREAS, on January 14, 2013, the NY SAFE (Secure Ammunition and Firearms Enforcement) Act of 2013 was introduced to the New York State Assembly and Senate; and**

**WHEREAS, the New York State Senate passed the thirty-nine page overhaul of the state's gun law the same day, while the assembly considered the bill a few more hours before passing it on January 15, 2013; and**

**WHEREAS, the Governor signed the bill into law the same day, on January 15, 2013; and**

**WHEREAS, the celerity of passage of this law is remarkable for the state legislature and Governor, though lamentably not admirable in this particular instance; and**

**WHEREAS, although certain aspects of the law appear to be thoughtful approaches to reduce instances of gun violence involving New Yorker's, others appear to be knee-jerk reactions made without the benefit of appropriate contemplation at best, or, at worst, disingenuous fee grabs cloaked as security measures; and**

**WHEREAS, the Webster provision's stiffer penalties for individuals who murder first responders in the course of their duties is appropriate and overdue; and**

**WHEREAS, the provision protecting information about registered gun owners is an effective way to reduce information to individuals who seek to commit crimes against an individual because of his or her status as gun owner, or not having the protection provided by a gun; and**

**WHEREAS, the provisions addressing mental health appear to be thoughtful efforts to address individuals who may use a weapon for illegal and violent purposes; and**

**WHEREAS, similarly, the safe storage provisions appear to be measures to keep weapons away from individuals who are shown to be more likely to use weapons for illegal and violent purposes, as well the provisions giving judges discretion to require surrender of a weapon by a person against whom an order of protection is granted; and**

**WHEREAS, the provision prohibiting the possession of a gun on a school bus or on school grounds without the written authorization of the school appears to be an effective way to separate children from guns, although probably not from people who seek to use guns for illegal and violent purposes; and**

**WHEREAS, unfortunately, the tougher assault weapons ban is overly inclusive and ineffective at reducing gun violence by individuals who use guns legally; and**

**WHEREAS, for example, the Remington 870, classic pump-action shotgun, a very common shotgun used by sportsmen, can be interpreted to fit the new definition of "assault weapon;" and**

**WHEREAS, further, unlike other provisions, this particular provision does not focus on individuals who use, or are a substantial threat to use, guns illegally and for violent purposes ; and**

**WHEREAS, also, reducing the ammunition magazine size from ten to seven does little to reduce gun violence by individuals using guns illegally, and nothing to reduce gun violence by law abiding gun owners; and**

**WHEREAS, similarly, statewide recertification of handguns does not reduce the use of guns by individuals who seek to use them illegally; and**

**WHEREAS, rather, it has the appearance of being an effort by New York State government to fill its coffers with increased fees, without providing for a mechanism to fund county clerks to accommodate the increased workload resulting from this law; and**

**WHEREAS, the Second Amendment, "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed," continues to be a part of the United States Constitution; and**

**WHEREAS, New York's SAFE Act appears to contain provisions which infringe upon the Second Amendment rights of its people; and**

**WHEREAS, as such, the New York SAFE Act should be repealed, revisited, carefully considered, revised and implemented in a manner that is respectful of the Second Amendment rights of New Yorkers.**

**NOW, THEREFORE, BE IT**

**RESOLVED, that the Erie County Legislature hereby supports repeal and revision of the New York SAFE Act of 2013; and be it further**

**RESOLVED, that a certified copy of this resolution be forwarded to Governor Andrew Cuomo, Assembly Speaker Sheldon Silver, Senate Majority Leaders Dean Skelos and Jeffrey Klein and the local delegation to the New York State Legislature.**

**Fiscal Impact: None.**